

**REPORT OF THE JUDICIAL RESOURCES COMMISSION  
TO THE SUPREME COURT  
AND GENERAL ASSEMBLY  
CY 1998**

**PREPARED PURSUANT TO §476.415, RSMO**

# JUDICIAL RESOURCES COMMISSION

## 1998

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# REPORT OF THE JUDICIAL RESOURCES COMMISSION TO THE SUPREME COURT AND GENERAL ASSEMBLY CY 1998

Since issuing its first report in 1991, the Judicial Resources Commission has met annually to review the state of the judiciary and make recommendations as needed. The following is the report for Calendar Year 1998.

## UNFUNDED LEGISLATION

Legislation which is passed without appropriations to handle the increased workload continues to cause difficulties for the judiciary. Requests for additional FTE based on fiscal notes have gone unfunded. Through an agreement with the governor's office in July, additional FTE were allocated on a temporary basis to circuit clerk's offices to assist with child support transfer to MACSS. The governor's office also has committed to providing its support for ongoing staffing assistance to courts after the central collection and disbursement of child support is removed from courts in October of 1999.

The number of cases being filed in Missouri's circuit courts continues to grow. The courts cannot control the volume of cases filed, and must try to administer justice in each case in a timely fashion. The Supreme Court has, by rule, established case processing time standards for civil and criminal cases. The volume of cases has increased from 854,863 cases in FY 89 to 939,117 cases in FY 98, an increase of 84,254 cases or 9.8%, while about 55,000 ordinance cases were transferred out of the state courts. The growth in cases is entirely attributable to two types of cases, criminal and domestic relations, as shown in the following table:

<u>Case Type</u>	<u>FY 89</u>	<u>FY 98</u>	<u>Increase</u>	<u>%</u>
Felony (Circuit)	21,009	33,695	12,696	60.3%
Misdemeanor (Associate)	85,771	120,236	34,465	40.1%
Domestic Relations	<u>63,629</u>	<u>100,285</u>	<u>36,656</u>	<u>57.6%</u>
	170,409	254,216	83,807	49.1%

The FY 2000 budget contains a request for an additional 174.72 FTE.

Another problem that has become apparent is the gap that is created by funding being increased to law enforcement and corrections without proportional increases occurring for the courts, prosecution, and the public defender system. One of the most immediate manifestations of this gap is the increased number of municipal violation tickets being written by federally funded law enforcement in some communities. These municipal charges are filed in the associate circuit courts, which are responsible for handling the cases, but there is no increase in clerical staff to handle the increased workload. In some communities, this increase has been very significant, and the clerks are unable to process the cases in the most timely manner.

The Commission recommends that the legislature consider the "ripple effect" of the legislation it passes to avoid creating a workload that cannot be handled by the present staff, and that it remain committed to funding FTE contained in fiscal notes after the legislation is passed. The Commission also supports the request for additional FTE contained in the FY 2000 Circuit Court Budget request.

## **JURY MANAGEMENT**

Courts continue to experience difficulty assembling jury pools and the public continues to regard jury service as too burdensome. Improving juror compensation, providing better accommodations, insuring jurors' safety, and making jury duty a more positive experience remain important goals. In the past year, there has been no progress relating to improving compensation. However, at least two of the metropolitan courts have instituted policies designed to provide protection for jurors. These include escorting jurors to their vehicles and keeping identifying information confidential both during and after a trial.

**The Commission recommends that the General Assembly consider legislation which improves the compensation and procedures for jurors and the protection of citizens asked to perform service as jurors. The Commission also recommends that more effort be expended on requiring people to serve by encouraging the imposition of penalties for failure to appear.**

## **CIRCUIT CLERKS**

The position of circuit clerk is a highly responsible position which is critical to the efficient operation of the circuit courts. Appointment of all circuit clerks would provide personnel with the required qualifications for this office.

**The Commission recommends the appointment of all circuit clerks.**

## **COURTHOUSE FACILITIES**

Courts lack facilities to accommodate senior and transferred judges, lack jury facilities and clerical workspace. These problems will become more acute as automation progresses and courts need adequate wiring and space for computer hardware. Some courts are still not in compliance with the Americans with Disabilities Act (ADA ).

Additionally, effective courthouse security is lacking in the majority of Missouri's courts. The report of the Court Security Committee, submitted to the Supreme Court in August 1996, recommended that the Office of State Courts Administrator seek an appropriation to fund a Director of Court Security within the office. A decision item for this position was included in the FY 98 and FY 99 budget request. It was not appropriated. An appropriation request for a grants fund to provide assistance to local courts has been included in the FY 2000 budget request.

**The Commission supports the Office of State Courts Administrator's budget request for an appropriation for a grants fund to provide assistance to local courts. The Commission also recommends that all courthouses be brought into compliance with the ADA at the earliest possible time.**

## **MUNICIPAL COURTS**

Municipal courts handle municipal ordinance violations. Section 479.020, RSMo provides that "Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges...." (Where a municipal judge has not been appointed or elected, associate circuit judges hear municipal cases.) Municipal judges in

Kansas City are appointed under the non-partisan court plan. In municipalities with a population under 7,500, municipal judges are not required to be attorneys. At present, about 25% of the 336 municipal judges are non-lawyers. Many municipal courts operate relatively autonomously. While the presiding judge of the circuit has superintending authority, in fact many courts are unsupervised until a problem develops. Because the municipal courts are the only courts that many citizens have contact with, and municipal judges have the authority to assess monetary fines and jail sentences, the Commission recommends that municipal judges meet the high standards of the rest of the judiciary.

A revolving fund has been authorized by the General Assembly to handle moneys sent from municipalities to pay for municipal court training programs developed by the Office of State Courts Administrator. Four hundred and seventy municipal judges and clerks attended training offered by the Office in 1998.

One other issue was addressed by the Commission. At present, municipal convictions are not used to enhance penalties for subsequent state offenses. As a result, many persons who are charged with a municipal offense rather than a state offense do not receive the punishment for a subsequent state offense that the legislature intended, particularly when it wrote laws relating to prior and persistent offenders.

**The Commission recommends that the General Assembly address the issue of using municipal convictions to enhance the punishment for subsequent state offenses.**

**The Commission recommends that all municipal judges be attorneys. The Commission also recommends that the General Assembly appoint a Joint Committee to study this issue. Specifically, the committee should study the administration, training and standards for the municipal courts. Any recommendations coming out of this process should be jointly addressed by the judicial, legislative and state and local executive branches.**

## **JUVENILE FACILITIES AND TREATMENT SERVICES**

The number of children entering the juvenile justice system continues to increase, as does the number of children certified to stand trial as an adult. The number of cases filed in the juvenile courts continues to climb, led by allegations of state law violations and of abuse and neglect. In the past ten years, there has been an increase of 37% in the total number of juvenile cases filed; projections show this increase to be 51% by 2001. Part of the rise is the increase in termination of parental rights cases and adoptions, fueled by state initiatives to reduce the amount of time children spend in foster and other alternative care situations. There is a lack of treatment and detention facilities for certified and other levels of juvenile offenders. The legislative requirement that state agencies share data is difficult because the juvenile system is not automated.

There has been significant progress in the area of juvenile justice however, including the approval of a federal appropriation of \$7 million to plan and implement an automated juvenile justice information system. Also in 1998, the legislature passed legislation converting certain juvenile court employees to the state payroll. This is a significant step toward enhancing the ability and procedures of the juvenile court employees. The lack of treatment and detention facilities for juveniles could be addressed in part by the establishment of regional justice centers. At present, some juvenile officers have to travel many miles to place a juvenile in a suitable facility. The Supreme Court Family Court Committee continues to examine areas that fall under the jurisdiction of the Family Court.

**The Commission supports the Office of State Courts Administrator in its budget request for additional FTE to allow it to comply with the legislative requirements for juveniles, and for funding for juvenile conversion.**



## **COURT IMPROVEMENT PROJECTS**

Federal legislation has imposed requirements on states relating to child abuse and neglect cases. In other areas of juvenile law, problems remain with docketing and processing cases in a timely manner. Missouri has responded to the federal requirements with legislation to bring state law into compliance. The Office of State Courts Administrator has continued pilot projects in the 2<sup>nd</sup> and 23<sup>rd</sup> judicial circuits to assess the problems and methods involved in, among other areas, expedited adoptions, dual planning, and a shorter time frame for termination of parental rights proceedings. Even in their early stages, these projects have proven to be successful. This year, funding is being sought in the budget to continue the projects and expand them in additional circuits.

The Commission supports the request for funding in the FY 2000 budget to continue and expand the permanency planning pilot project.

## **FAMILY COURTS**

Family Courts, established by statute in 1993, offer a means of coordinating many related judicial activities. Under the "umbrella" of the family court, domestic relations cases, adoptions, juvenile cases, adult abuse/child protection petitions, paternity cases and child support issues are handled by a single court whose primary purpose is to adjudicate these often-related cases.

In many courts, the programs developed by family courts remain unavailable to litigants and their families, as do the benefits gained from a more coordinated approach to the issues involved. Separate judges and clerks handle juvenile, adult abuse, domestic relations, and paternity cases, despite the fact that some of the cases overlap and could be best addressed as a whole. The present system places court clerical staff in situations which are more appropriate for trained professional staff, e.g., assisting with adult abuse petitions, discussing visitation problems, etc.

To date, family courts have been established in the 7<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 16<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, and 31<sup>st</sup> circuits, and a family court is planned in the 23<sup>rd</sup> circuit.

In May, the Missouri Family Court Team attended a Summit conducted on Unified Family Courts by the ABA. As a result of information gathered at that meeting, the team recommended, in October, that the Missouri Supreme Court create an Ad Hoc Unified Family Court Committee to develop family court operational and functional standards to be presented to the Supreme Court for adoption.

The Commission recommends that, wherever possible and needed, family courts be established. It also recommends that adult abuse and child protection assistance be provided by someone other than a clerk, preferably a professional staff member. The Commission encourages presiding judges to adopt mediation programs, or an analogous program, in those domestic relations cases where children are involved. The Commission also recommends that, wherever a family court is created, the court provide the maximum programs and services possible for all family members. The Commission supports the adoption of operational and functional standards for family courts.

## **JUDICIAL RESOURCES ALLOCATION**

The Commission recommends that the issue of allocation of judges be jointly addressed by the judicial, executive and legislative branches at the earliest possible time so that caseloads among judges in the various circuits will be brought into better balance, and that caseloads be reviewed on a regular basis to insure that judicial resources continue to be properly allocated.

Legislation in recent years has created a number of judicial commissioners, most notably in family courts. Since these commissioners are not elected or appointed by the governor, as are judges, the issue of converting judicial commissioner positions to judgeships has been raised.

**The Commission recommends that the issue of converting judicial commissioner positions to judgeships be addressed by the legislature, the governor, and the judiciary.**

## SENIOR JUDGES

Section 476.682, RSMo provides the statutory basis for compensating senior judges the difference between their judicial retirement and the salary of the office for those days they sit as a senior judge pursuant to Supreme Court order. The senior judges provide assistance, where needed, for a fraction of the cost of a permanent judge. This program is working very well, as senior judges continue to provide a valuable service for Missourians.

In FY 98, 48 retired judges accepted assignments to serve as senior judges. They accepted period of time orders totaling 5,146 days. Senior judges served for 2,275 days in FY 98. This amounts to 455 weeks of judicial service provided by senior judges where vacancies had occurred due to retirement or illness, keeping dockets current until a replacement was appointed or in an effort by the court to remain current. Based on the statutory standard of 235 days equaling one year's service, senior judges provided over 9 judgeships in FY 98. In addition, senior judges were assigned to 304 individual cases that were for the most part multi-day jury trials or complex matters.

The long-time problem of a lack of full compensation for senior judges has been solved by a sufficient appropriation since FY 1997. However, senior judges continue to experience difficulties with inadequate courthouse space and facilities, including the absence of a court reporter in most instances. At present, official court reporters frequently cannot be freed from regular assignments to preserve lengthy or complex trials conducted by senior judges—the types of trials they are most likely to conduct. As a result, litigants willing to use a senior judge who wish to have a court reporter are required to pay for the related costs themselves. This is unfair, since other litigants who have similar cases heard by active circuit judges are not required to assume those costs.

**The Commission recommends that adequate support services be provided for senior judges, including court reporters for lengthy or complex trials. The Commission recommends that presiding judges arrange for necessary facilities—court reporter, courtroom—in advance for a senior judge who has agreed to serve. The Commission commends the General Assembly for fully funding senior judge compensation and strongly supports future increases in appropriations as needed to accommodate the efficient utilization of the valuable resource made available by senior judges. The Commission also commends senior judges who continue to provide this valuable service.**

## TIME STANDARDS

Fiscal year 1998 was the first full fiscal year that revisions to Administrative Rule 17, "Case Processing Time Standards" were implemented. Although the revisions were not implemented until January 1, 1997, they were applied to FY 1997 totals. Thus, a direct comparison can be made between FY 1997 and FY 1998.

Improvement was made in four of the six civil "age of case at disposition" time standards categories between FY 1997 and FY 1998. Statewide, all four time standards goals in the domestic relations and circuit civil categories increased by one percentage point. The criminal time standards goals basically remained unchanged from FY 1997 to FY 1998. As can be seen in the accompanying table, 37 of the 45 circuits were able to achieve one or more of the time standards during fiscal year 1998, one more circuit than last fiscal year. The circuit felony and associate civil time standards categories had the most circuits achieving one or more of the goals, 21 and 31 circuits respectively.

**No recommendation required other than that the courts continue to evaluate the progress of time standards implementation.**

## **PUBLIC DEFENDER**

The historical challenge facing Missouri's Public Defender System has been retention of experienced attorneys. Five years ago, nearly 20% of all Missouri Public Defenders resigned annually, usually citing low compensation as the reason. Funding increases improved attorney salaries, greatly improving retention. Today's attorney turnover rate is approximately 8% with exit interviews indicating compensation is no longer a major factor in an attorney's decision to leave the system. Today, the average tenure of a Missouri Public Defender is approximately 4.7 years. The more experienced public defenders are providing better representation and have greatly contributed to a higher case disposition rate.

The caseload of Missouri's Public Defender System increased dramatically in FY 96 to 70,509 cases, up 15.5% from FY 95. Fortunately, this dramatic increase was not repeated in FY 97. However, an 8% increase in FY 98 brought the total assigned cases to 76,462. Projecting 8% increases, Missouri's Public Defender System caseload will exceed 100,000 cases by the year 2002.

Installation of this Department's new computer system, compatible with the emerging State Courts Automation System, is complete. The project, known as "*Excellence Through Technology*," was a Southern Regional finalist for the *Innovations Award* for the Council of State Governments. The Juvenile Public Defender Office in St. Louis City, which was approved by the Commission in September 1996, has improved juvenile court representation in St. Louis City and St. Louis County and provides a resource to other Missouri Public Defenders across the state.

Finally, the public defender and staff must have adequate, efficient office space. Establishment of local public defender offices is the duty and responsibility of the State Public Defender Commission. However, RSMo 600.040.1 mandates the expense for local offices be the responsibility of the city or county served by that office. Under this statutory scheme, conflict between this Department and local government is inevitable. The State Public Defender Commission cannot fulfill its responsibility of establishing or expanding local public defender offices without the support of local governments. Understandably, counties object to being forced to support a department of state government, particularly when the county has no say in the establishment or expansion of local public defender offices.

Two years ago, the State Public Defender Commission sought a change to RSMo 600.040.1 and the funding to make the financial burden of office space a state, rather than county obligation. They were unsuccessful. Instead, the general assembly approved language to House Bill 5 which would allow the interception of county prisoner per diem refunds if that county was failing to meet its obligation under RSMo 600.040. The State Public Defender Commission continued to seek the cooperation of county governments in this area and closely monitored the changes to House Bill 5 in the hopes county governments would comply with their statutory obligation. While a few did, most counties view the interceptions as heavy-handed, state mandate type tactics, straining county/state relations.



The State Public Defender Commission once again proposes a revision to RSMo 600.040, which would make the obligation of providing office space for state public defenders a state obligation, rather than the county obligation. The Commission's FY 2000 budget request includes decision items which fund office space needs and address the growing caseload.

**The Commission supports the Public Defender's Office in its efforts to revise §600.040, RSMo and its budget request for funding for office space needs, and to address the growing caseload.**

## **STATEWIDE COURT AUTOMATION**

The Missouri Court Automation (MCA) Committee is implementing the statewide plan developed in the information architecture and adopted in July 1996. Major projects for the year include continued installation of the Banner Courts Case Management System in circuit and appellate courts, completion of implementation of hardware, software and network components of the infrastructure, and design and pilot testing of the concept of the electronic case file as the basis of record keeping for all courts.

**The Commission acknowledges the ongoing need to maintain the automation system, to expand the applications of the system, and to replace and maintain equipment. Therefore, the Commission supports funding what will be an indispensable service within the judiciary.**

## **REGIONAL JUSTICE CENTERS**

The county-based courthouse system currently in place in Missouri is inefficient and archaic as Missouri approaches the 21<sup>st</sup> century. When the system was created, modern transportation did not exist, and the travel time required to reach each courthouse was often significant. Today, however, travel between counties is easily accomplished by the vast majority of Missouri citizens, making the existence of many county courthouses an unnecessary fiscal burden on many counties. The concept of regional justice centers has emerged in recent years as a means of modernizing the way justice-related facilities are developed. Ideally, regional justice centers should include, beside court facilities, space for a jail, the public defender, the prosecutor, and probation and parole. Besides the obvious efficiency of this concept, the regional justice center offers the potential of enormous cost savings to local governments, particularly as they relate to the cost of maintaining a jail and other detention facilities.

The Office of State Courts Administrator has applied for a combined federal grant and money from the governor's reserve totaling \$400,000 to study the issue of regional justice centers.

**The Commission supports the concept of a regional justice center. The Commission supports OSCA's application for funding to study the issue of regional justice centers.**

## **EMERGING ISSUES**

### **FOREIGN LANGUAGE TRANSLATORS**

The importance of providing qualified courtroom interpreters for non-English speaking defendants and witnesses is rapidly becoming universally accepted. In recent years, it has become an axiom, enforced by case law, that the Constitutional guarantees of the Fourth, Fifth, Sixth, Eighth, and

Fourteenth amendments are without meaning if the defendant cannot understand the nature of the proceedings brought against him, confront his accusers, confer with his attorney, or participate in his own defense. He is, in effect, denied equal justice and the right to due process. Case law and anecdotal evidence are replete with incidences of injustice resulting from a failure to communicate with a defendant or witness or from poor quality interpretation; these injustices accrue to victims as well as defendants.

Demographic trends indicate that the need for interpreters will increase significantly in coming years. In 1990, the estimated number of home speakers of non-English languages in the United States was 31.8 million, or 12.6% of the total population. This represents an increase in the Asian and Pacific Islander populations by 108% since 1980, in Hispanics by 53%, and in other language minority populations by 45% in the same period of time. (In 1990, Missouri had 178,000 home speakers of selected, non-English languages age 5 and over.) While many courts have come to acknowledge the importance of interpreters, the problems they face in providing qualified courtroom interpreters are significant.

**The Commission recommends that the legislature address the issue of foreign language interpreters in the courts.**

# REPORT OF THE COMMISSION ON JUDICIAL RESOURCES

## December, 1998

### STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENTS STATISTICS FY 1998

Graph 1  
Missouri Circuit Court  
Cases Filed and Disposed  
FY 1998

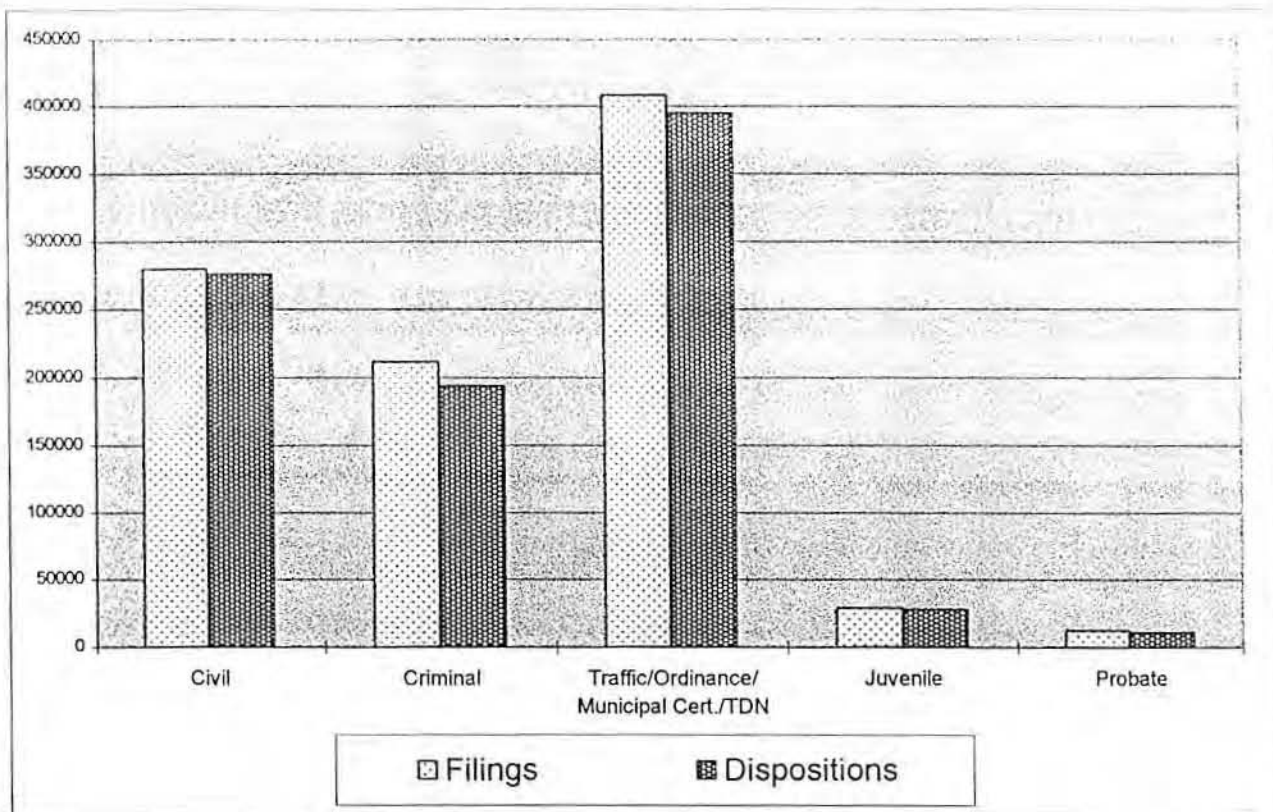


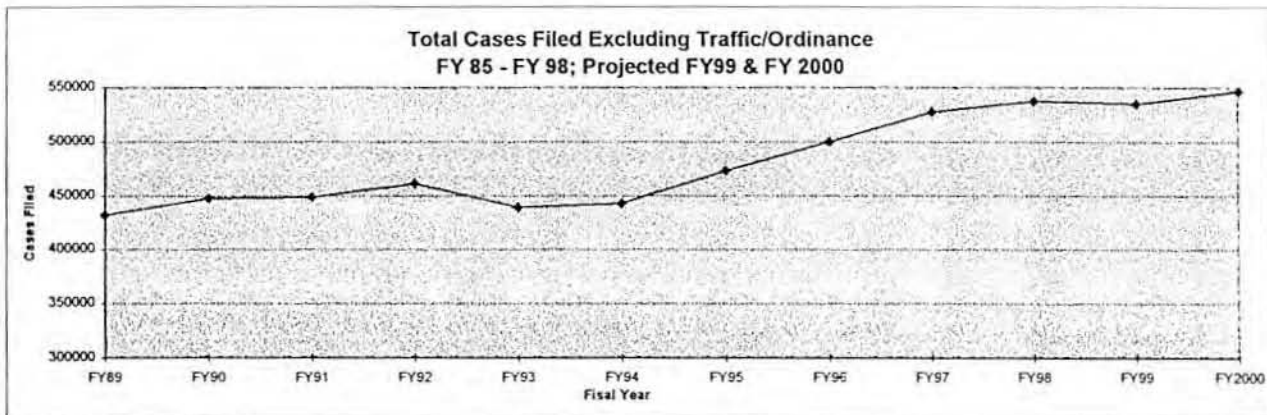
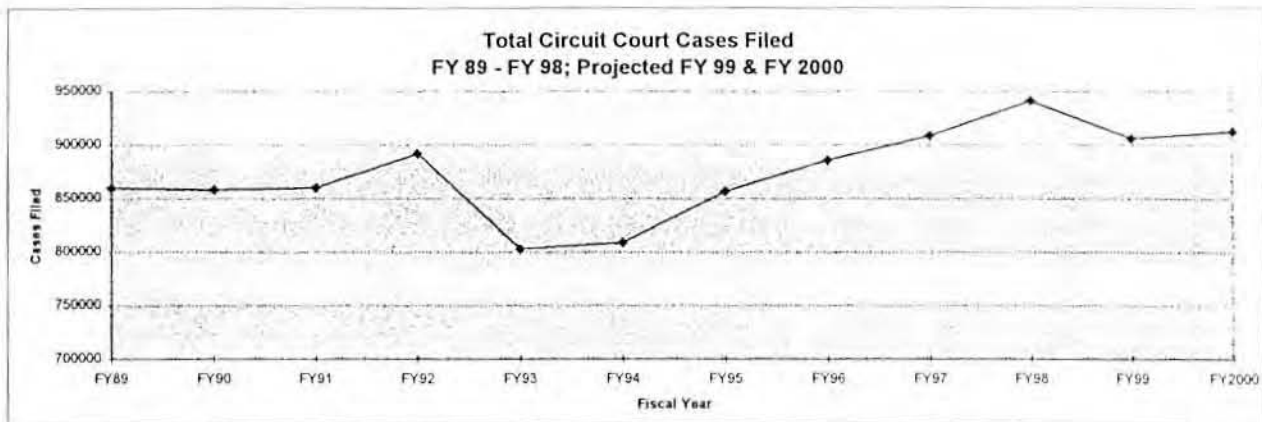
Table 1  
Missouri Circuit Court  
Cases Filed and Disposed by Case Type  
FY 1998

Case Type	Filed	Disposed	*Disposition to Filing Ratio
Civil	279818	276227	0.99
Criminal	211739	193836	0.92
Traffic/Ordinance/ Municipal Cert./TDN	407948	394994	0.97
Juvenile	29185	28244	0.97
Probate	12518	11341	0.91
Total	941208	904642	0.96

\* This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

# REPORT OF THE COMMISSION ON JUDICIAL RESOURCES DECEMBER, 1998

## OVERALL CASELOAD GROWTH



The creation of the St. Louis County traffic court and the volatility of the high-volume state traffic caseload can be seen in the comparison of total case filings with and without traffic. Legislation shifted about 55,000 county ordinance cases to a new St. Louis County traffic court in 1993, and the state traffic case volume was down in FY 93 and FY94.

Please note: "Total Circuit Court Cases Filed" includes civil, criminal, juvenile, and probate statistics



**Table 2**  
**Missouri Circuit Court**  
**Cases Disposed by Manner of Disposition**  
**FY 1998**

Case Type	---With Trial---		-----Without Trial-----				Total
	Jury	Court	Uncontested	Plea	Dismissed	*Other	
Civil	935	42,902	123,368	n/a	103,445	5,577	276,227
Criminal	866	1,399	n/a	107,423	49,586	34,562	193,836
Traffic/Ord./Municipal Cert./TDN	22	6,042	n/a	352,662	34,968	1,300	394,994
Total	1,823	50,343	123,368	460,085	187,999	41,439	865,057

\* Other includes such manners of disposition as change of venue, certification, and bind over of felony preliminary cases.

**Table 3**  
**Missouri Circuit Court**  
**Judge Transfers/Assignments**  
**FY 1998**

	No of <u>Days</u>	No of Individual <u>Case Assignments</u>	*Total Civil/ Criminal Cases <u>Disposed</u>
Transfers of Associate/ Circuit Judges	1,926	1,380	11,912
Senior Judge Assignments	5,139	312	5,750

Note: Transfers/assignments are made for either specific periods of time or to handle individual cases. Numerous cases may be heard in a single period-of-time assignment.

\* Not available for traffic, probate or juvenile case types.

**CASE PROCESSING TIME STANDARDS  
AGE OF CASE AT DISPOSITION  
FY 1998**

Time Standard Category	Percent Standard for Age of Case at Disposition in the State	Actual Performance Statewide	Circuits Meeting Standard in FY 1998
<b>Circuit Civil</b>			
In 18 months	90%	79%	Circuits 14, 19
In 24 months	98%	87%	Circuit 14
<b>Domestic Relations</b>			
In 8 months	90%	83%	Circuits 1, 2, 13, 14, 19
In 12 months	98%	90%	
<b>Circuit Felony</b>			
In 8 months	90%	85%	Circuits 4, 5, 8, 9, 10, 13, 14, 15, 18, 19, 21, 23, 27, 28, 29, 30, 32, 35, 36, 37, 39
In 12 months	98%	93%	Circuits 4, 5, 8, 10, 13, 14, 15, 19, 28, 32, 36
<b>Associate Civil</b>			
In 6 months	90%	84%	Circuits 1, 2, 3, 4, 6, 9, 10, 11, 12, 13, 14, 17, 23, 25, 27, 28, 30, 31, 34, 35, 39, 41, 42, 43, 44, 45
In 12 months	98%	95%	Circuits 1, 2, 4, 6, 8, 9, 11, 13, 14, 17, 21, 23, 27, 31, 32, 34, 35, 36, 37, 39, 41, 42
<b>Associate Criminal</b>			
in 4 months	90%	79%	Circuits 2, 5, 9, 10, 32, 33, 34, 41
in 6 months	98%	89%	Circuits 2, 10, 32